

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-293-JRG
vs.)	
)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO., LTD;)	(Lead Case)
SAMSUNG ELECTRONICS AMERICA,)	
INC.; SAMSUNG SEMICONDUCTOR)	<div style="background-color: black; width: 150px; height: 1.2em;"></div>
INC.,)	
)	
Defendants.)	

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-294-JRG
vs.)	
)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.;)	
MICRON SEMICONDUCTOR)	
PRODUCTS, INC.; MICRON)	
TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	

**DECLARATION OF STEPHEN M. PAYNE IN SUPPORT OF PLAINTIFF
NETLIST, INC.'S MOTION FOR SUMMARY JUDGMENT THAT THE
ASSERTED PATENTS ARE NOT STANDARD ESSENTIAL
(SAMSUNG CASE NO. 2:22-CV-293)**

I, Stephen M. Payne, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Plaintiff Netlist, Inc. (“Netlist”) in the above-captioned action. I am a member in good standing of the State Bar of California and have been admitted to practice *pro hac vice* before this Court in this action. I provide this declaration in support of Netlist, Inc.’s Motion for Summary Judgment that the Asserted Patents Are Not Standard Essential (Samsung Case No. 2:22-CV-293). I have personal knowledge of the facts stated herein, and could and would testify completely thereto if called as a witness in this matter.

2. Attached as **Exhibit 1** is a true and correct excerpted copy of Exhibit B to the Rebuttal Report of Dr. William Henry Mangione-Smith, dated December 21, 2023.

3. Attached as **Exhibit 2** is a true and correct excerpted copy of Exhibit A to the Rebuttal Report of Dr. William Henry Mangione-Smith, dated December 21, 2023.

4. Attached as **Exhibit 3** is a true and correct copy of the JEDEC Manual JM21V.

5. Attached as **Exhibit 4** is a true and correct excerpted copy of Attachment A to the Initial Expert Report of Joseph C. McAlexander III Relating to U.S. Patent No. 7,619,912, dated November 20, 2023.

6. Attached as **Exhibit 5** is a true and correct excerpted copy of Attachment B to the Initial Expert Report of Joseph C. McAlexander III Relating to U.S. Patent Nos. 9,858,215 and 11,093,417, dated November 20, 2023.

7. Attached as **Exhibit 6** is a true and correct excerpted copy of Attachment C to the Initial Expert Report of Joseph C. McAlexander III Relating to U.S. Patent No. 10,268,608, dated November 20, 2023.

8. Attached as **Exhibit 7** is a true and correct excerpted copy of Attachment A to the Rebuttal Expert report of Joseph C. McAlexander III Relating to U.S. Patent No. 7,619,912, dated

December 21, 2023.

9. Attached as **Exhibit 8** is a true and correct copy of the Report & Recommendations filed as Dkt. 421 in Case 2:22-cv-00203-JRG-RSP on January 8, 2024.

10. Attached as **Exhibit 9** is a true and correct excerpted copy of the Pretrial Hearing Transcript in *Netlist v. Micron*, No. 22-cv-203 (E.D. Tex.), dated December 20, 2023.

11. Attached as **Exhibit 10** is a true and correct excerpted copy of the Expert Report of John B. Halbert, dated November 20, 2023

12. Attached as **Exhibit 11** is a true and correct excerpted copy of the Seung-Mo Jung deposition transcript, dated November 12, 2023.

13. Attached as **Exhibit 12** is a true and correct excerpted copy of the Sung Joo Park deposition transcript, dated November 15, 2023.

14. Attached as **Exhibit 13** is a true and correct excerpted copy of the You Keun Han Volume 1 deposition transcript, dated November 9, 2023.

15. Attached as **Exhibit 14** is a true and correct excerpted copy of the Corrected Rebuttal Expert Report of Peter Gillingham, dated December 21, 2023.

16. Attached as **Exhibit 15** is a true and correct excerpted copy of Attachment B to the Rebuttal Expert Report of Joseph C. McAlexander III Relating to U.S. Patent No. 11,093,417, dated December 21, 2023.

17. Attached as **Exhibit 16** is a true and correct excerpted copy of Attachment C to the Rebuttal Expert Report of Joseph C. McAlexander III Relating to U.S. Patent No. 10,268,608, dated December 21, 2023.

18. Attached as **Exhibit 17** is a true and correct copy of U.S. Patent No. 10,268,608.

19. Attached as **Exhibit 18** is a true and correct excerpted copy of the Bench Trial Transcript in *Netlist v. Samsung*, No. 2:21-cv-463-JRG (E.D. Tex.), dated May 30, 2023.

20. Attached as **Exhibit 19** is a true and correct excerpted copy of Exhibit C to the Rebuttal Report of Dr. William Henry Mangione-Smith, dated December 21, 2023.

21. Attached as **Exhibit 20** is a true and correct excerpted copy of Plaintiff Netlist, Inc.'s Revised Fourth Amended and Supplemental Responses and Objections to Samsung Defendants' Second Set of Interrogatories (Nos. 3-22), dated November 19, 2023.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 16, 2024, in Newport Beach, California.

By /s/ Stephen M. Payne

Stephen M. Payne